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Message Text

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20
ACTION EB-07

INFO OCT-01 IO-10 ISO-00 L-02 FRB-01 OMB-01 TAR-01 SP-02

AGR-10 AID-05 CIAE-00 COME-00 INR-07 LAB-04 NSAE-00

OIC-02 RSC-01 SIL-01 STR-04 TRSE-00 CIEP-02 CEA-01

OES-05 FEA-01 FPC-01 INT-05 /074 W
---------- 017090
R 040810Z FEB 75
FM USMISSION GENEVA
TO SECSTATE WASHDC 398

UNCLAS GENEVA 0652

STATE FOR WILLIS AND STEINMETZ

E.O. 11652: NA
TAGS: UNCTAD EWWT
SUBJ: UNCTAD: 4TH SESSION OF WORKING GROUP ON SHIPPING LEGISLATION

1. PLENARY DISCUSSION OF CHARTER PARTIES DID NOT BEGIN UNTIL WEDNESDAY BECAUSE FRENCH-LANGUAGE EDITION OF 77-PAGE SECRETARIAT REPORT WAS NOT AVAILABLE UNTIL MONDAY.

2. GROUP B INITIAL POSITION PARALLED DISCUSSION LAID OUT IN SUMMARY RECORD OF DEC 18 OECD MEETING. GROUP D HAS EXPRESSED SIMILAR QUESTIONS REGARDING NECESSITY OF INTERGOVERNMENTAL ACTION IN THIS AREA. GROUP OF 77 HAVING DIFFICULTY TAKING POSITION. THERE MAY BE DIVISION OF OPINION WITHIN LATTER GROUP. ADDITIONALLY, 77 ARE REPRESENTED PRINCIPALLY BY LOCAL MISSION PEOPLE WHO SEEM TO KNOW LITTLE ABOUT CHARTER PARTIES.

3. GROUP B TOOK INITIAL POSITION THAT GENERAL SITUATION SATISFACTORY BUT GROUP IS OPEN TO ANY PROBLEMS 77 MIGHT POINT OUT. 77 THEN PROMISED TO PRESENT PLENARY WITH LIST OF QUESTIONS. THIS LIST NEVER PRODUCED. INSTEAD, 77 PROPOSED VARIOUS SECRETARIAT STUDUES ANALYZING
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ECONOMIC CONSEQUENCES OF PRESENT SITUATION VIS-A-VIS

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DEVELOPING COUNTRIES. DURING "B" MEETING AFTERWARD,
CONSENSUS SEEMED TO BE FORMING THAT, ASSUMING THAT
THE TERMS OF REFERENCE OF SUCH A STUDY COULD BE
PROPERLY LIMITED AND THAT STUDY WOULD COME WITHIN
BUDGET, "B" COULD PROBABLY ACCEPT IT SINCE IT PRACTICAL-
LY AMOUNTED TO AN ACKNOWLEDGEMENT BY ALL GROUPS THAT
PRESENT REPORT INADEQUATE BASIS FOR INTERGOVERN-
MENTAL ACTION.

4. STUDIES WERE EXPANDED ON FRIDAY TO INCLUDE MORE
SUBSTANTIVE WORK BY SECRETARIAT, SIMILAR TO THAT
PROPOSED IN CONCLUSIONS SECTION OF REPORT. 77
PROPOSAL READS AS FOLLOWS. BEGIN TEXT:
TEXT SUBMITTED BY THE GROUP OF 77

1. THE COUNTRIES MEMBERS OF THE GROUP OF 77 CONSIDER
THAT THE UNCTAD SECRETARIAT SHOULD CONDUCT STUDIES
TO THE FOLLOWING EFFECT:
(I) ON TIME CHARTERING. A COMPARATIVE ANALYSIS
OF THE THREE MAIN TYPES OF TIME CHARTER PARTIES, THE
BALTIME, THE NEW YORK PRODUCE EXCHANGE AND LINERTIME,
CONCENTRATING INTER ALIA ON THE FOLLOWING FACTORS
AND CLAUSES OF--
QUESTIONS OF LIABILITY FOR LOSS AND DAMAGE TO
CARGO; PARAMOUNT CLAUSE; DEVIATION CLAUSE;
GENERAL AVERAGE CLAUSE; CANCELLING CLAUSE;
ARBITRATION CLAUSE AND INDEMNITY CLAUSE AND THE NOTICE CLAUSE.
(II) ON VOYAGE CHARTERING. THE STUDY WOULD
CARRY OUT A COMPARATIVE ANALYSIS OF PRINCIPLE CLAUSES
INCLUDING THOSE MENTIONED IN (I) ABOVE, IN REGARD TO
PRODUCTS/COMMODITIES OF MAIN INTEREST TO DEVELOPING
COUNTRIES I.E., CEMENT, IRON, SOYA, REFRIGERATED
GOODS, GENERAL CARGO, GRAIN, OIL, COCOA, TIMBER,
ORE, FERTILIZERS, ROCK PHOSPHATES, RICE AND SUGAR,
LIVESTOCK, COPRA, COCONUT OIL.

2. THE SECRETARIAT SHOULD FURTHER UNDERTAKE:
(A) A COMPREHENSIVE REVIEW OF THE VARIOUS CLAUSES
SO AS TO DETERMINE THE RELATIVE IMPACT ON THE DIFFERENT
PARTIES AND TO ASSESS AS TO WHICH PARTY THE PARTICULAR
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CLAUSE FAVOURS;
(B) TO POINT OUT THOSE PRINCIPAL CLAUSES WHICH
ARE SUSCEPTIBLE TO HARMONIZATION WHILE ALSO TAKING
INTO CONSIDERATION THAT SUCH HARMONIZATIONS BRINGS
OUT AN EQUITABLE BALANCE OF RIGHTS AND OBLIGATIONS
OF THE DIFFEENT PARTIES.
(C) TO SUGGEST IMPROVEMENTS WHERE NECESSARY.
(D) TO POINT OUT THOSE ASPECTS OF CHARTER PAR-

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TIES IN ADDITION TO THOSE ENUMERATEDIN PARA 537 OF UNCTAD'S STUDY ON CHARTER PARTIES (TD/B/C.4/ISL/13) WHICH ARE SUITABLE FOR INTERNATIONAL LEGISLATIVE ACTION AND THUS REQUIRING MANDATORY APPLICATION EITHER BY MEANS OF AN INTERNATIONAL CONVENTION OR THROUGHT ANY OTHER LEGALLY BINDING INTERNATIONAL INSTRUMENT.

3. THE STUDIES REQUESTED ABOVE SHOULD BE PREPARED WELL IN ADVANCE OF THE SEVENTH SESSION OF THE WORKING GROUP SO AS TO REACH THE GOVERNMENT MEMBERS OF THE WORKING GROUP THREE MONTHS BEFORE THE SEVENTH SESSION. END TEXT

5. GROUP B AGREED TO MEET MONDAY TO DISCUSS PROPOSED STUDIES. SUBSTANTIVE WORK MAY BE FOUGHT BY SEVERAL B DELEGATIONS. GROUP WILL PROBABLY MOVE TO ACCEPT ORIGINAL, MORE LIMITED PROPOSAL THAT SECRETARIAT PRODUCE A STUDY ON ECONOMIC CONSEQUENCES OF THE PRESENT SYSTEM TO DEVELOPING COUNTRIES.

6. UNLESS INSTRUCTED OTHERWISE, USDEL PLANS TO SUPPORT GROUP B CONCENSUS, ALTHOUGH BELIEVE EITHER STUDY PROPOSED WOULD BE WITH TERMS OF ORIGINAL INSTRUCTIONS.

7. TIMING OF ANY STUDY MAY CUASE DEBATE AS 77 HAVE PROPOSED THAT SECRETARIAT COMPLETE STUDY IN TIME FOR SEVEN SESSION (1978). SEVERAL B DELEGATIONS, HOWEVER, OPPOSED TO SUCH DELAY SINCE THIS WILL BRING MARINE INSURANCE UP ON AGENDA, WHICH THEY SEEM TO FEAR. DALE

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